

**STATE OF MAINE
121ST LEGISLATURE
FIRST REGULAR SESSION**

**First Annual Report
of the
COMMUNITY PRESERVATION
ADVISORY COMMITTEE**

February 2003

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Sen. Lynn Bromley
Rep. Sue Hawes, Standish
Rep. David Tobin, Windham
Rep. Janet McLaughlin, Cape Elizabeth
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Executive Summary

The Community Preservation Advisory Committee (CPAC) was established by the 120th Legislature and charged with advising the Governor, the Legislature, state agencies, and entities on matters relating to community preservation. During its first year, the Committee was co-chaired by Senator Peter Mills and Representative Ted Koffman. The Senate President and Speaker of the House appointed eleven members to the Committee, including six legislators, and five representatives of key interests. The Director of the State Planning Office and the Commissioner of the Maine Historic Preservation Commission, designated as members in statute, directed agency staff to serve in their places.

Unlike three previous legislative task forces convened to address issues related to sprawl, growth management, and land use, the Community Preservation Advisory Committee has been authorized for a five-year lifecycle, through June 2008. The duration of this committee stems from the first recommendation of the Joint Study Committee to Study Growth Management (2001), to establish an ongoing committee that can, on a more consistent basis, confront issues dealing with planning for growth and preserving the character of Maine communities.

The Committee held its first meeting in October 2002. The members were presented with information from several state agencies on current activities and initiatives impacting community livability and preservation, as well as proposals for future committee consideration. At the second meeting, the Committee identified six priority areas affecting community preservation and growth: 1) tax policy; 2) livable, affordable housing; 3) growth caps, "NIMBYism" (an acronym standing for "Not In My Back Yard"), and infill development; 4) how transportation policies and investments affect communities; 5) building rehabilitation codes; and 6) rural preservation surrounding growing communities.

By the end of the third meeting in December, the Committee agreed to forward eight legislative proposals to the 121st Legislature (First Session) and four recommendations to state agencies. The legislative proposals included bills to address:

1. Encouraging local development of affordable housing;
 - a. Establish a fund known as "Affordable Neighborhood Development Fund." MSHA will create rules and administer incentive funding (grants) based on review of a statewide Board to assure the projects meet certain minimum standards that assure their livability (or just delete from "that assure" on). Both the developer(s) and the town(s) would submit applications to the Board. Grants would be used to compensate municipalities for expenses related to the project's impacts on transportation (roads, sidewalks, streetscapes), sewer and water, schools, and/or open space preservation. Money would be released based on certificate of occupancy; funds would be related to the number of units.
2. Providing tax increment financing as a tool to support the development of affordable housing;
 - a. Create a bill to establish a municipal affordable housing development district program at the Maine State Housing Authority (MSHA).
3. Clarifying state expectations for rate of growth ordinances ("growth caps");
 - a. Submit original language proposed to the 2001 Growth Management Task Force regarding local rate of growth ordinances (growth caps)
4. Addressing referenda that retroactively reverse local decisions.
 - a. Submit original language of LD 796 from the 120th Legislature, "Limitation on Ordinance Power" to address retroactive moratoria on building (and other reversed local decisions) that are a result of citizen-initiated referenda.
5. Integrating transportation and land use planning;
 - a. Create a bill to direct the Maine Department of Transportation (MDOT) to promulgate rules to give preference in funding programs to communities that allow increased density (transit sufficient density) in their growth areas.
 - b. Create a bill to direct MDOT to incorporate regionalism in the Transit Bonus Payment Program rules, if they are unable to modify the rules before they are finalized.

6. Providing increased options for encouraging transit or public transportation systems;
 - a. Submit resolve to amend Article IX, Section 19 of the Maine Constitution to permit funding transit from motor vehicle and motor vehicle fuel revenues.
7. Encouraging the adoption of local building rehabilitation codes;
 - a. Create a bill to offer incentives to communities for adopting both a building code that includes a rehabilitation component based on *either* of the two national codes (International Code Council or the National Fire Protection Association), for example preferences for Department of Economic and Community Development (DECD)-administered economic development grants

During the 121st Legislative Session, the legislative members of the Committee will divide sponsorship and co-sponsorship of the bills. It is expected that the Committee and interested parties will reconvene during session to discuss strategy for advancing the bills. In addition to the seven areas where legislation is being moved forward, the Committee identified the following mid- and long-term goals and strategies:

1. Bills critical to the mandate of the Committee should not be held until the 122nd Legislature, but should be forwarded when timely (e.g., even in the Legislature's Second Session) because of the finite tenure of the Committee;
2. The complex issues that impact the development of affordable communities will not be shaped by legislation alone; Maine State Housing Authority, the State Planning Office, and other supporters of affordable housing opportunities must continue to reach out and educate decision makers and communities;
3. A regional approach is critical to realizing the efficiencies of coordinated land use, transportation, and fiscal planning, and the Committee will continue to increase its understanding of the issues surrounding regionalism and advocate for regional approaches;
4. The Committee will continue to investigate and support opportunities to encourage rural preservation and development in growth areas;
5. The Committee will also continue to investigate and support other CPAC priorities in the 121st Legislature; and
6. To advance the dialogue and build on the committee's shared experiences, the Committee encourages Legislative leadership to reappoint standing Legislative members to the Committee whenever possible.

Introduction

The Community Preservation Advisory Committee (CPAC) was established by the 120th Legislature in PL 2001, Chapter 648 (Title 30-A, Section 4350). The Committee is charged with advising the Governor, the Legislature, state agencies, and other entities on matters relating to community preservation. Specifically, the Committee is directed to:

- Provide assessment, advice and recommendations on emerging policy concerns or on adjustments to existing programs related to growth management;
- Review and make recommendations on the State's fiscal, transportation, education funding, school-siting and land use policies that affect service center communities, rural lands and development sprawl;
- Review tax policy as it affects land use decisions;
- Provide assessment, advice and recommendations on the role of state office buildings in the continued viability of downtown service centers within the State and the impact of growth-related capital investments and location decisions by the State;
- Provide assessment, advice and recommendations on the coordination of state and local urban transportation planning and streamlining of local and state land use rules and regulations to permit and encourage efficient neighborhood and economic development in growth areas; and
- Review and make recommendations regarding options for establishing a state transferable development rights bank.

The Committee was co-chaired by Senator Peter Mills and Representative Ted Koffman. The Senate President and Speaker of the House appointed eleven members to the Committee, including six legislators and five representatives of key interests. The Senate President appointed two senators and representatives of rural municipal interests, service center interests, and the Maine State Housing Authority. The Speaker of the House appointed four Representatives and representatives from the environmental community and real estate and development community. The Directors of the Maine State Planning Office and Maine Historic Preservation Commission, or their designees, are also members. A complete list of committee members is included as Appendix B.

The Committee met four times in the fall / winter 2002: October 21; November 25; December 9; and January 14. In addition, a subgroup of Committee members and interested parties met once in December to address issues surrounding the affordable housing agenda, and members interested in further discussing the legislative agenda met in February. Committee meeting summaries are included as Appendix C.

In addition to the 13 members of the Community Preservation Advisory Committee, 99 individuals are currently included in an email distribution list of "interested parties," receiving regular updates on meetings and Committee activities. Several state agencies and public groups have been closely involved in the CPAC's activities, and regular participation in Committee dialogue by the Department of Transportation, Department of Economic and Community Development, Department of Education, Maine State Housing Authority, Bureau of General Services, Maine Revenue Services, and State Planning Office has encouraged collaboration across agencies and with the Committee. The participation of the Maine Chamber of Commerce, Maine Municipal Association, Maine Real Estate and Development Association, Maine Association of Realtors, and Maine Audubon Society has brought additional perspective to the Committee.

To facilitate communication, a website developed for the Committee is hosted on the State Planning Office's website, <http://www.maine.gov/spo/landuse/tfandcomm/cpac>. The website includes meeting agendas, meeting summaries, electronic copies of many of the handouts, as well as additional background information on priority topics.

The Community Preservation Advisory Committee is charged with submitting an annual report of the Committee's activities to the Legislature and the joint standing committee of the Legislature having

jurisdiction over natural resources matters by December 1st of each year. However, the Committee requested and received authorization from the Legislative Council to extend the reporting date to February 28, 2003.

Based on its first four meetings, the Committee has submitted legislative proposals for the 121st Legislature in seven areas. Due to the ongoing nature of the Committee's charge, both Legislative and public Committee members are planning to be heavily engaged in the 121st Legislative Session for the eight bills that have been proposed by the Committee. In addition, the Committee will monitor over 100 bills in the state legislature that overlap with the Committee's priority areas of interest. Committee members expect to continue their legislative agenda in the 2nd Session of the 121st Legislature, as appropriate.

Background Information

Recognizing that community preservation and growth management are not new issues to the Legislature or state agencies, the Committee first sought to recognize what has already been accomplished, in order to determine where they should place their short-term and long-term priorities. Based on legislative summaries compiled by the Office of Policy and Legal Analysis, the State Planning Office drafted a summary of the efforts of three state task forces (the Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development in 1999; Task Force to Study Growth Management in 2000; and Joint Study Committee to Study Growth Management in 2001), the Governor's Sub-Cabinet Committee on Smart Growth, and the 119th and 120th Legislatures in areas related to sprawl, growth management, and community preservation. For each of the last three years, a separate legislative task force or study committee was convened in the fall to explore smart growth issues and prepare a package of recommendations for legislative consideration and action the following spring. In addition to legislative efforts, the Governor convened a Sub-Cabinet Committee, the "Smart Growth Coordinating Committee," which prepared and adopted a three-year strategic plan called Smart Growth: The Competitive Advantage. The complete summary of activity is included in Appendix D.

Overview of Topics Addressed in 2002

The charge given to the Committee requires members to focus on interconnected issues of community health, land use, economic development, tax policy, rural preservation, and natural resource conservation. Although four of the thirteen members of the Committee had participated on one of the three previous state task forces focusing on growth management issues, and several of the Committee members were well-versed in some of the issues brought before the Committee, the Committee invited experts from several state agencies and interested organizations to come forward to present their concerns and observations to the Committee during their first two meetings. This served as a springboard for the third and fourth meetings.

Department of Economic and Community Development (DECD): Peggy Schaffer provided the Committee with background information on DECD and its current priorities. DECD includes three divisions, covering the areas of Business Development, Tourism, and Community Development (administering the Community Development Block Grant (CDBG) program). Ms. Schaffer noted that the CDBG program is one of the State's largest sources of funds for municipal grants; the funding is passed through from the federal government. CDBG funds approximately \$17 million in grants, although the use of those funds is limited to those specified by federal guidelines and priorities. For example, at least 51% of the benefit has to go to "low and moderate income" people, or to "relieve slum and blight." Even with those restrictions, however, DECD has found ways to encourage good planning in conjunction with the funding program. For example, DECD only funds capital projects within a locally designated growth area (or similar areas described in the rules), in towns with a local comprehensive plan (or towns that have not received a grant for a comprehensive planning effort).

While there has been some encouragement of regionalism, it is a difficult fit for the CDBG program because of its focus on paying for *local* infrastructure, such as sewer and water. The program was primarily designed for large urban areas, so DECD has worked to find a good fit for Maine towns. Approximately \$1.4 million of the CDBG funds are used for downtown grants.

DECD also administers the Municipal Investment Trust Fund (MITF), which Ms. Schaffer characterized as similar to the CDBG grants, but without the federal strings. The MITF was authorized in 1993, although no funding was available for it until the summer of 2001. Currently, the Fund has \$4.3 million available from a \$300,00 appropriation from a state budget surplus and a bond package. DECD is currently developing rules for administration of the Fund. Working closely with the Maine Bond Bank, DECD foresees that it will be able to double the amount of funds available to municipalities by offering low-interest loans instead of concentrating on grant funding.

In addition, DECD is working closely with the Department of Human Services (Drinking Water Program), the Department of Environmental Protection, and the federal Rural Development program when new projects are proposed to maximize the funding matching opportunities and ensure the "biggest bang" for the local buck.

State Board of Education: Jim Rier provided the Committee with a summary of Recent Accomplishments that Support Effective Growth Planning. The State's Renovation Fund of \$100 million has impacted over 100 school units, involving nearly 150 school buildings. The Department of Education (DOE) received applications from 375 – 400 projects, although not every application represented a single school. Renovation projects have, until this point, focused on health and safety issues, although Mr. Rier expressed the hope that upgrades and focusing on quality "learning space" will soon play a larger role in the funding. In two rounds of funding, the Renovation Fund has funded 35 schools; the capital value of the projects is approximately \$375 million, including local match and Department funding.

Particular concerns of the Department include the rapidly changing school-age population. School enrollment projections released the day before the CPAC meeting showed that in 500

municipalities, 412 expect declining enrollments, some with declines as much as 20 – 40 percent. There is a lively discussion of whether or not building (or renovating) high schools for a small number of students (e.g., less than 300) is a good use of funding. The Department also recognizes, however, the difference between elementary, middle, and high schools in this discussion.

Mr. Rier was asked if there have been any changes to the rules regarding campus size of schools, which can make siting a school in already developed areas very difficult. He responded that the rules had not changed to reduce the minimum campus size, although the Department will allow exemptions for noncontiguous sites to count toward the required minimum campus size (e.g., off-site playing fields).

Mr. Rier was asked about the opportunity for changing the scoring of projects to reflect the proximity of schools with excess capacity in close proximity to the proposed project. He responded that the scoring is based on the needs of the students and that the solutions proposed do not play a role in the prioritization of projects.

In response to a question about greater integration of school siting and planning with broader community development activities, Mr. Rier noted that districts and communities have frequently begun their project planning prematurely, before the Department has had an opportunity to lay the groundwork for the process. There has been some success in increasing community involvement and getting the State Planning Office involved early in the process, however communities generally begin to move ahead as soon as their names appear on the funding list.

Mr. Rier noted that incentives for regionalism would work toward addressing issues of the large number of school boards and superintendents in the current system.

Department of Transportation (MDOT): Kathy Fuller highlighted the Department's Access Management Program. The program, although on the books since the 1950s, really started in 1999. New rules were released in 2002, which include greater focus on planning, corridors, and a regional approach to planning. The Department is currently collecting information in an inventory to examine the impacts of the new rules.

One aspect of corridor planning the Department is investigating is the opportunity for conservation of significant resources adjacent to corridors. For example, MDOT could purchase the access rights, while another agency or group could purchase the development rights.

Two emerging programs at MDOT were described. The Department is looking at integrating transportation planning with Urban, Service Center, and Village policy and investments. The current Biennial Transportation Improvement Program (BTIP) plan for Fiscal Years 2002-2003 will identify these investments, while the next Six Year Plan will begin to integrate these areas. On a related topic, MDOT is also investigating the implementation of last year's legislative changes allowing Local Road funds to be channeled into transit incentives. The Department is also interested in introducing rules or guidance for the transportation elements of a comprehensive plan. The Planning and Land Use Regulation Act does not specify recent changes to state law, including the Sensible Transportation Policy Act of 1991.

When asked about linking density and land use planning to transportation investments, Ms. Fuller responded that the Department is starting to do this in some areas. For example, MDOT has a new sidewalk policy where they will pay for sidewalks in dense neighborhoods with appropriate setbacks, proximity to schools, and other features.

Maine State Housing Authority: Working through a series of handouts, Peter Merrill noted the forces of supply and demand of affordable housing units are not balanced at the local level. It is generally in a town's best interest to limit the supply of additional housing units because of the additional costs involved, and some towns are actively discouraging residential development

through growth caps, zoning, and cumbersome local approval processes. This is impacting growth because homebuyers are being pushed out into rural areas because they cannot afford to purchase a property in town, and pulled out of developed areas because property taxes are so much lower outside of the cities. The tax policy discussion is a good opportunity to get at school funding and tax policy's impacts on affordable housing issues.

Bureau of General Services: Jerry Nault shared information developed for the recent Downtown Conference, including a list of selected leased spaces in service center downtowns and growth areas. The Bureau provides a monthly report to the Governor that includes new leases. Rep. Koffman asked if it included variables such as where the space was located (in a service center, growth area, downtown), and if it is taxable.

State Planning Office: Reviewing an open letter to the Committee, Beth Della Valle highlighted significant accomplishments by the past growth management task forces, and encouraged the Committee to consider the linkages between patterns of development and tax policies, smart growth and affordable housing, and options for inducing growth and redevelopment in service centers and downtowns in the short-term.

CPAC Priorities Established for the 121st Legislature

The Community Preservation Advisory Committee has chosen, in the short-term, to pursue both a legislative and programmatic strategy for implementing its charge. Where a legislative approach has been chosen, the six legislative members of the Committee have agreed to sponsor legislation and shepherd the proposals through the State Legislature. The Committee members identified several short-term priorities to pursue during the 121st Legislature; members approved the following bills proposed to the legislature and sponsored by CPAC members:

1. Encourage Integration of Transportation and Land Use Policies

The CPAC recognizes the close connection between transportation investments and patterns of development. Historically, where transportation infrastructure has been built or significantly improved, a dispersed pattern of development has followed if the municipality has not put in place coordinated planning goals and ordinances.

In order to improve the coordination between land use and transportation planning, the legislative members of the Committee are sponsoring legislation that would direct MDOT to promulgate a major substantive rule in cooperation with the State Planning Office that establishes linkage between the planning processes outlined in the Sensible Transportation Policy Act (23 MRSA §73) and those promoted by the Planning and Land Use Regulation Act (30-A MRSA Chapter 187).

2. Encourage Enhancement of Local Public Transportation Options

Addressing areas related to community preservation requires an integration of many policy and programmatic areas, including transportation, land use, and housing issues. The Committee focused on availability of public transportation options as an important component for communities to address economic development, affordable housing, livability, and transportation infrastructure concerns.

The legislative members of the CPAC are sponsoring legislation this session that would direct MDOT to incorporate regionalism into the Transit Bonus Payment Program rules. The Transit Bonus Payment Program builds on the URIP (Urban-Rural Initiative Program, formerly known as the Local Road Assistance Program), and allows a bonus to municipalities' annual disbursements. The bonus, which must be used for highway purposes, is awarded if the municipality increases their transit spending on operational expenses and capital above a base year's amount (Fiscal Year 2000). The last section of this law (Chapter 681; LD507) requires MDOT to create rules for the program; those are nearly complete. MDOT is planning on taking applications to this program in 2003. The bill submitted would direct MDOT to modify the Program rules to incorporate priorities or preferences to towns that operate a transit service that has a regional component.

3. Support mechanisms to encourage local adoption of a building rehabilitation code

Local community and economic redevelopment efforts in existing village centers or downtowns are frequently hampered because of the real or perceived financial differences between rehabilitation and new development. Home and business owners who wish to rehabilitate and upgrade existing buildings may encounter building code requirements that make rehabilitation financially impossible, effectively pushing development toward undeveloped areas. Similarly, communities faced with burgeoning costs of rehabilitating neighborhood schools to bring them up to modern code may choose to abandon the existing site for a new site outside of the village center. The Committee recognizes that the lack of a statewide rehabilitation code adds a degree of

uncertainty and confusion to local projects and developers, hampering opportunities to build, and maintain, community vitality.

In February 2002, the Maine State Planning Office and Building Rehabilitation Code Advisory Council reported its findings that a single statewide building code is a necessary precursor to development of an overlapping rehabilitation code. It also found that many different codes are in use throughout Maine communities, most based on models from one of two national code organizations (International Code Council or the National Fire Protection Association). Last year, both of those organizations created rehabilitation codes to integrate with their model codes. Few Maine municipalities have adopted them. The Building Rehabilitation Council recommended that the Legislature reexamine the desirability of developing a model statewide building code for Maine and create incentives for municipalities to adopt it. The Committee recognizes the value of a statewide code while acknowledging that it can still encourage communities to adopt rehabilitation codes until the State sees fit to adopt one. To that end, the legislative members of the Committee are sponsoring a bill that provides incentives for municipalities to adopt the rehabilitation component of one of the two national building codes. The bill envisions a preference for DECD-administered economic development grants if a municipality adopts the rehab component of a code.

Because of its potential creation of statewide building and rehabilitation licensing guidelines, the Committee will track Representative Cowger's proposed bill to license building contractors.

4. Encourage rural preservation and direct growth toward locally designated growth areas; encourage regionalism to increase local efficiency and strengthen Service Center communities

The Committee has engaged the Department of Education, Department of Transportation, Bureau of General Services, State Planning Office, and Maine State Housing Authority in seeking to understand the complex interplay of strengthening service center communities, managing growth in Maine's sprawling communities, and preserving working rural landscapes and critical natural resources. The Committee will watch legislation in the 121st Legislature, lending its support to those bills which members feel support these goals. Conversely, members will speak out against bills that provide incentives, hidden or otherwise, that encourage sprawl or undermine Maine's service center communities.

Although not a part of its legislative agenda, the Committee is supporting the State Planning Office's plans to revisit its guidelines for comprehensive planning, to encourage regionalism, strengthen service center communities, and encourage strategies that result in preservation of critical natural resources and working rural areas.

In addition, the Committee will look to the results of State Planning Office research regarding "transfer of development rights" and "density transfer fee" approaches that use fiscal incentives to direct growth toward desired areas and away from areas desired to be protected. These programs, if applicable to Maine communities, can provide an additional tool for municipalities and regions to plan for and control their patterns of development.

5. Ensure that tax reform and changes to tax policies do not undermine the health of Maine's Service Center communities nor subsidize sprawl

There are over forty tax-related bills being proposed in the 121st Legislature which the CPAC believes impact the vitality of Maine's communities and influence public and private investment decisions. One of these bills (see #6, below) will direct the Maine

State Housing Authority to develop a tax increment financing (TIF)-like program that will permit municipalities to recapture a portion of the taxes from affordable housing developments to pay for certain capital improvements and other development costs.

As in other topic areas, The Committee will watch legislation in the 121st Legislature, lending its support to those bills which members feel support these goals. Conversely, members will speak out against tax bills that provide incentives, hidden or otherwise, that encourage sprawl or undermine Maine's Service Center communities. For example, the Committee will consider criteria by which all tax reform measures should be examined in terms of impact on community preservation issues, e.g.:

- Relieve service centers from the burden of nontaxable governmental, non-profit, and institutional facilities that provide regional benefits;
- Encourages investment in service centers;
- Protects year-round and/or long-term property from escalating values;
- Encourages investment in growth areas;
- Provides incentives for regional tax base sharing and land use management (planning, adoption of ordinances, investment and other strategies; and
- Authorizes differential application of local tax assessment based on consideration appropriate uses for growth and rural designations.

6. Increase opportunities for housing affordable to all of Maine's residents

Throughout southern and coastal Maine, including nine housing market regions that encompass about a third of the state's towns and 44% of its families, the problem of housing that is within reach of families of average means has become intractable. Many of our communities' valued occupations - including teaching and policing - do not pay enough to afford the median priced home. In fact, many dual-working households do not earn enough. The Maine State Housing Authority has documented the problem, but even without official studies, the anecdotal evidence - from classified ads to conversations with first-time homebuyers - is overwhelming. The effects present themselves in three ways:

- First, many young families must now either forego home ownership or move farther away to rural edges, 20 or more miles from job centers, in search of land and housing they can afford. In the trade of distance for housing, these families now spend 20% of their incomes on transportation, more than they pay for food;
- Second, the cost of housing has become a deterrent to the location and expansion of business in need of employees with average wages; and
- And, third, among the lowest income, working households, there is growing homelessness. As of July 2001, nearly a third of persons in homeless shelters had jobs.

The problem has reached a point that not even recession or low mortgage rates have corrected the market.

To address this disconnect, the CPAC has proposed two bills. The first, mentioned in #5, above, would direct the Maine State Housing Authority to create a TIF-like program that will permit municipalities to recapture a portion of the taxes from affordable housing developments to pay for certain development costs associated with the impacts of that development.

The second bill being proposed by CPAC legislative members to the 121st Legislature builds on the broadly supported LD 2099 from the 120th Legislature. The bill proposed to the 121st Legislature builds on the framework of LD 2099 in its definition of affordable, livable neighborhood development, the establishment of a review board, and use of

guidelines in the review. However, it makes review by the board voluntary. Towns and developers interested in certifying a development would present a joint application to the review board. Certification by the board would qualify the municipality for compensation for increased capital costs such as school expansion, transportation/road/sidewalk infrastructure, sewer and water provision, and open space acquisition. The Maine State Housing Authority would develop the rules for the review board and oversee implementation of the program.

7. Address local uncertainty created by the ability of local referenda to change local policies retroactively

Real estate developers that have proposed projects with compact development patterns or an affordable housing component have, anecdotally, met with significant resistance from local interests. Investment, funding, and development decisions are based on local decisions, and when those decisions can be rescinded retroactively by local citizen referenda, a great deal of uncertainty is introduced — for the developer, the finance community, and the municipality. To address this uncertainty, the Committee is supporting a bill that would prohibit municipal ordinances or bylaws enacted by citizen initiative or referendum from containing retroactivity provisions that have the effect of invalidating, repealing, revoking or modifying building permits, land use approvals, or other action having the effect of permitting development if that permit or approval was issued or that action was taken prior to enactment of the ordinance or bylaw.

8. Provide guidance to municipalities regarding implementation of growth ordinances

Many Maine communities, especially in southern and coastal Maine but rapidly extending beyond its fringes in all directions where signs of sprawls are becoming evident, are adopting rate or growth ordinances, or growth caps, in an attempt to stem the rapid pace of development they are experiencing. Unfortunately, many of these towns have are not planning for those growth caps or the patterns of development they are encouraging, and the effect is encouraging a dispersed, leap-frogged and expensive pattern of sprawling development across the State. The Committee has submitted a bill that would outline the parameters within which a municipality may adopt a rate of growth ordinance. The proposed bill includes options for a community faced with unexpected growth pressures, which feels it must limit growth in order to step back and preserve and plan for that growth. It also recognizes caps as a tool; towns can use to direct growth to designated growth areas and away from important rural areas. In addition, the Committee encourages the State Planning Office to create a new rule (Rate of Growth Ordinance Review Criteria Rule) that would evaluate local growth caps against comprehensive plans that have been found consistent with the Planning and Land Use Regulation Act.

Mid-Term and Long-Term Committee Recommendations

In addition to supporting the legislative agenda outlined in the Section above, the Community Preservation Advisory Committee recommends the following:

- 1. Bills critical to the mandate of the Committee should not be held until the 122nd Legislature.**

Although the legislative members of the Committee introduced eight bills on behalf of the Committee in the 121st Legislature, 1st Session, the Committee will continue to meet and develop strategies to meet its legislative charge throughout 2003 and 2004. To that end, the Committee predicts that it will have additional legislative proposals to present before the close of the 121st Legislature. The Committee will likely request a waiver from the Legislative Council to permit introduction of legislation in the 2nd Session in 2004.

- 2. The complex issues that impact the development of affordable communities will not be shaped by legislation alone; Maine State Housing Authority, the State Planning Office, and other supporters of affordable housing opportunities must continue to reach out and educate decision makers and communities.**

The Committee will support work on outreach and communication on its affordable housing agenda (TIF approaches supporting affordable housing development and the board certification/compensation program providing incentives for livable, affordable neighborhood development), especially in those Labor Market Areas with demonstrated gaps in affordability. Examples of this outreach include holding forums sponsored by the Maine State Housing Authority, re-convening the group of public and private supporters of the Livable, Affordable Neighborhoods bill, and supporting legislation that forwards the affordable housing agenda. Building rehabilitation should be recognized as a viable approach to increasing local stocks of affordable housing units, available for both rental and ownership.

- 3. The integration of transportation and land use planning at the local, regional, and state level is critical in realizing shared visions of Maine's future.**

It has been well documented that transportation infrastructure investment is one the most significant drivers of local development (along with educational investment). Recognizing this close connection, MDOT and SPO have been working to encourage local and regional planning that integrates transportation and land use. The Community Preservation Advisory Committee supports this integration as well as other programs under development, including MDOT's consideration of strategies to address the sprawling patterns of development along Maine's arterials roads such as developing adjacent service roads.

Transportation planning includes not only roads and intersections, but also providing alternative modes and means of transportation to the single-occupancy-vehicle trip. The Committee supports increased education and outreach around areas of transportation and land use impacts, including advocating for increased transit opportunities that provide an attractive alternative to single occupancy vehicle commuting trips. The Committee will continue to consider proposals to amend Article IX, section 19 of the Maine Constitution to permit funding public transportation from motor vehicle and motor vehicle fuel revenues.

4. A regional approach is critical to realizing the efficiencies of coordinated land use, transportation, education, and fiscal planning.

In addition to supporting the State Planning Office and Department of Transportation in addressing regionalism in their rules and programs, the Committee recognizes that regional approaches to planning go beyond the short-term financial gain to be had by sharing resources. Just as labor markets, housing markets, and ecosystems do not recognize municipal boundaries, our leaders and planners should recognize that local decisions and planning have an impact far beyond the town line. The Committee will support legislation and non-legislative programs that strengthen regional approaches in Maine; the Committee will continue to focus on this issue in 2003 and 2004.

In supporting a regional approach, the Committee will consider means for creating incentives for programs that cross municipal boundaries, as well as incentives for thinking and acting regionally, in areas such as infrastructure, economic development, school siting, housing, transportation planning, and natural resource management.

5. Investigate and support opportunities to encourage rural preservation and development in growth areas.

In 2003, the Committee plans to identify specific legislative changes, if required, that would enable the creation of density transfer fees or similar programs that would permit towns to protect their priority natural resources or working rural lands, and direct growth toward their locally designated growth areas.

The Committee supports the Land for Maine's Future program, and recognizes its role as a critical tool in shaping growth by acquiring public lands for conservation, water access, outdoor recreation, wildlife and fish habitat and farmland conservation. With its goals of preserving Maine's unique natural resources and farmland, the LMF program is very closely tied with smart growth efforts across Maine. The LMF Board has taken care to ensure that resources accepted into the program are not being unduly pulled out of the development stream, and that the conservation efforts are compatible with local land use planning and development.

6. Continue to investigate and support other CPAC priorities in the 121st Legislature.

Several critical areas central to the Committee's charge will likely be addressed in the upcoming Legislative Session. The Committee will continue to meet and discuss these issues, as well as support bills that coincide with the CPAC mandate. Issues of special consideration include: *School Construction Rules*, related to community preservation and walkable neighborhoods; *Storm Water Rules*, related to unintended consequences and discouraging density; *Contractor Certification*, related to building and rehabilitation code; and *Access Management*, if MDOT's new rules are challenged.

7. To advance the dialogue and build on the committee's shared experiences, Legislative members of the Committee should be reappointed to the Committee, whenever possible.

Although the non-legislative members of the Committee are appointed for three-year terms, legislators' terms end at the end of each Legislature. Continuity and trust are critical for a group addressing the complex issues of growth management, fiscal, transportation, education funding, school siting, and land use policies. Whenever possible, the Committee recommends that legislative members, who are re-elected, be reappointed to the Committee at the beginning of each Legislature.